

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

MICROSOFT CORPORATION, )  
a Washington corporation, )  
Plaintiff, ) 8:06CV263  
v. ) STIPULATED  
JAY D. SMITH, an individual, ) PERMANENT INJUNCTION  
Defendant. ) and  
 ) ORDER

Plaintiff Microsoft Corporation (Microsoft) and Defendant Jay D. Smith, an individual (Defendant), hereby stipulate that Defendant, his agents, servants, employees, representatives, successors and assigns, and all those persons or entities acting in concert or participation with him, shall be and hereby are **PERMANENTLY ENJOINED** and restrained from:

(a) imitating, copying, or making any other infringing use or infringing distribution of software programs, components, end user license agreements (EULA) or items protected by Microsoft's registered trademarks and service mark, including, but not limited to, the following Trademark Registration Nos.:

- (1) 1,200,236 ("MICROSOFT");
- (2) 1,256,083 ("MICROSOFT")
- (3) 1,872,264 ("WINDOWS");
- (4) 1,744,843 (COLORED FLAG DESIGN);

or the software programs, components, EULA, items or things protected by the following Certificate of Copyright Registration Number:

(1) TX 407-055 ("Windows XP Pro");

and any other works now or hereafter protected by any of Microsoft's trademarks or copyrights;

(b) manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting, or displaying any software program, component, EULA, item or thing bearing any simulation, reproduction, counterfeit, copy, or colorable imitation of any of Microsoft's registered trademarks or service mark, including, but not limited to, the Trademark and Service Mark Registration Nos. listed in Paragraph (a) above;

(c) using any simulation, reproduction, counterfeit, copy, or colorable imitation of Microsoft's registered trademarks or service mark including, but not limited to, the Trademark and Service Mark Registration Nos. listed in Paragraph (a) above, in connection with the manufacture, distribution, offering for distribution, sale, offering for sale, advertisement, promotion, or display of any software, component, EULA, item or thing not authorized or licensed by Microsoft;

(d) using any false designation of origin or false description which can or is likely to lead the trade or public or individuals erroneously to believe that any software, component, EULA, item, or thing has been manufactured, produced, distributed, offered for distribution, advertised, promoted, displayed, licensed, sponsored, approved, or authorized by or for Microsoft, when such is in fact not true;

(e) using the names, logos, or other variations thereof of any of Microsoft's copyright and/or trademark-protected software programs in any of Defendant's trade or corporate names;

(f) engaging in any other activity constituting an infringement of any of Microsoft's trademarks, service mark and/or copyrights, or of Microsoft's rights in, or right to use or to exploit these trademarks, service mark, and/or copyrights; constituting any dilution of Microsoft's name, reputation, or goodwill; or constituting trafficking in illicit labels as prohibited by 18 U.S.C. § 2318, et seq.; and

(g) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in paragraphs (a) through (f) above.

Microsoft and Defendant further stipulate that Defendant will provide written notice to Microsoft's counsel of any changes in the name and/or address of any software business that he owns or operates, or by which he is employed.

**IT IS SO STIPULATED.**

DATED: January 4, 2007

By: /s/ Richard P. Jeffries  
Richard P. Jeffries #20089  
Kutak Rock LLP  
The Omaha Building  
1650 Farnam Street  
Omaha, NE 68102-2186  
(402) 346-6000

Attorneys for Plaintiff  
Microsoft Corporation

DATED: January 4, 2007

By: /s/ Adam H. Jacobs  
Adam H. Jacobs #19832  
Law Offices of Adam H. Jacobs  
1904 Farnam Street, Suite 726  
Omaha, Nebraska 68102  
(402) 345-9035

Attorneys for Defendant  
Jay D. Smith

**IT IS SO ORDERED.**

DATED: January 5th, 2007

**BY THE COURT:**

s/Thomas D. Thalken  
United States Magistrate Judge